

service under his jurisdiction, with a proviso that if he elected to have proficiency pay paid under former subsec. (a)(1) of this section, enlisted members in a military grade or rank assigned to pay grade E-8 or E-9 could be paid proficiency pay at a monthly rate that is not more than the highest rate prescribed by subsection (a)(2) of this section, but if he elected to have proficiency pay paid under subsection (a)(2) of this section, he could prescribe, within the limitations set forth in that subsection, the pay for each proficiency rating prescribed therein. Former subsec. (b), which had provided that an enlisted member who had less than 8 or 10 years, as the case might be, of enlisted service computed under section 205 of this title and who had been advanced under subsection (a)(1) of this section to pay grade E-8 or E-9, respectively, was entitled to the minimum amount of basic pay and special or incentive pay prescribed for that pay grade until his years of service computed under that section entitled him to a higher rate of those pays, was struck out.

Subsecs. (c), (d). Pub. L. 98-525 redesignated subsec. (d) as (c) and substituted “armed forces under his jurisdiction” for “uniformed services under his jurisdiction”. Former subsec. (c) redesignated (b) and amended.

1968—Subsec. (d). Pub. L. 90-623 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title VI, §632(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-157, provided that: “The amendment made by subsection (a) [amending this section] shall take effect October 1, 2000.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 619(b) of Pub. L. 104-106 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1996.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective Oct. 1, 1984, see section 623(c) of Pub. L. 98-525, set out as a note under section 305a of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968 see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

#### MEMBERS ENTITLED TO SPECIAL PAY AS OF SEPTEMBER 30, 1984

Section 623(b)(3) of Pub. L. 98-525 provided that: “A member of the uniformed services who, on September 30, 1984, was entitled to special pay under section 307 of title 37, United States Code [this section], as in effect on such date, may continue to be paid the special pay authorized by such section as though the amendments made by this subsection [amending this section] had not been made. However, a member may not be paid the special pay authorized by such section as in effect on September 30, 1984, and the special pay authorized by such section as amended by this section.”

### § 307a. Special pay: assignment incentive pay

(a) **AUTHORITY.**—The Secretary concerned may pay incentive pay under this section to a member of a uniformed service who performs service,

while entitled to basic pay, in an assignment designated by the Secretary concerned. Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.

(b) **WRITTEN AGREEMENT.**—(1) The Secretary concerned may require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a monthly basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the monthly rate of the incentive pay.

(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay.

(c) **MAXIMUM RATE OR AMOUNT.**—(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is \$3,000.

(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

(A) the product of (i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and (ii) the number of months in the period for which incentive pay will be paid; divided by

(B) the number of installments over such period.

(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.

(d) **REPAYMENT.**—A member who enters into an agreement under this section and receives incentive pay under the agreement in a lump sum or installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303a(e) of this title.

(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

(f) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of—

- (1) temporary duty performed by the member pursuant to orders; or
- (2) absence of the member for authorized leave, other than leave authorized for a period ending upon the discharge of the member or the release of the member from active duty.

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2007.

(Added Pub. L. 107-314, div. A, title VI, §616(a)(1), Dec. 2, 2002, 116 Stat. 2569; amended Pub. L. 108-375, div. A, title VI, §§614(b), 617(a), (b), Oct. 28, 2004, 118 Stat. 1947, 1948; Pub. L. 109-163, div. A, title VI, §§624(b), 628, 687(b)(13), Jan. 6, 2006, 119 Stat. 3295, 3296, 3329.)

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163, §628(a)(1), struck out “monthly” before “incentive pay” and inserted at end “Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.”

Subsec. (b). Pub. L. 109-163, §628(a)(2), designated existing provisions as par. (1), substituted “the payment of incentive pay on a monthly basis” for “incentive pay” in first sentence, and added par. (2).

Subsec. (c). Pub. L. 109-163, §628(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “The maximum monthly rate of incentive pay payable to a member under this section is \$1,500.”

Subsec. (d). Pub. L. 109-163, §687(b)(13), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows:

“(1) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service. The Secretary concerned may waive repayment of an amount of incentive pay under this section, in whole or in part, if the Secretary determines that conditions and circumstances warrant.

“(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).”

Pub. L. 109-163, §628(c), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109-163, §628(c)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109-163, §628(c)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 109-163, §624(b), substituted “December 31, 2007” for “December 31, 2006”.

Subsec. (g). Pub. L. 109-163, §628(c)(1), redesignated subsec. (f) as (g).

2004—Subsec. (b). Pub. L. 108-375, §617(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The period for which incentive pay will be provided under this section and the monthly rate of the incentive pay for a member shall be specified in a written agreement between the Secretary concerned and the member. Agreements entered into by the Secretary of a military department shall require the concurrence of the Secretary of Defense.”

Subsec. (e). Pub. L. 108-375, §617(b), substituted “by reason of—” and pars. (1) and (2) for “by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.”

Subsec. (f). Pub. L. 108-375, §614(b), substituted “December 31, 2006” for “December 31, 2005”.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VI, §617(c), Oct. 28, 2004, 118 Stat. 1949, provided that: “Paragraph (2) of section 307a(e) of title 37, United States Code, as added by subsection (b), shall apply with respect to authorized leave occurring on or after the date of the enactment of this Act [Oct. 28, 2004].”

#### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(b) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of Title 10, Armed Forces.

#### ANNUAL REPORT

Pub. L. 107-314, div. A, title VI, §616(b), Dec. 2, 2002, 116 Stat. 2570, provided that: “Not later than February 28, 2004, and February 28, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority provided under section 307a of title 37, United States Code, as added by subsection (a), including an assessment of the utility of that authority.”

### § 308. Special pay: reenlistment bonus

(a)(1) The Secretary concerned may pay a bonus under paragraph (2) to a member of a uniformed service who—

(A) has completed at least 17 months of continuous active duty (other than for training) but not more than 20 years of active duty;

(B) is qualified in a military skill designated as critical by the Secretary of Defense, or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as service in the Navy; and

(C) reenlists or voluntarily extends the member's enlistment for a period of at least three years—

(i) in a regular component of the service concerned; or

(ii) in a reserve component of the service concerned, if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10).

(2) The bonus to be paid under paragraph (1) may not exceed the lesser of the following amounts:

(A) The amount equal to the product of—

(i) 15 times the monthly rate of basic pay to which the member was entitled at the time of the discharge or release of the member; and